



**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 22-24

RIN 1515-AE76

**Extension of Import Restrictions on Archaeological and Ecclesiastical Ethnological
Materials From Guatemala**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain categories of archaeological and ecclesiastical ethnological materials from Guatemala to fulfill the terms of the new agreement, titled “Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Categories Of Archaeological and Ethnological Material of Guatemala.” CBP Dec. 12-17, which contains the Designated List of archaeological and ecclesiastical ethnological material from Guatemala to which the restrictions apply, is being extended for an additional five years by this final rule.

DATES: Effective September 29, 2022.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings,

Office of Trade, (202) 325–0084, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Julie L. Stoeber, Chief, IUSG Branch, Trade Policy and Programs, Office of Trade, (202) 945-7064, IUSGBranch@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97-446, 19 U.S.C. 2601 *et seq.*, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a memorandum of understanding (MOU) with the Republic of Guatemala (Guatemala) on September 29, 1997, concerning the imposition of import restrictions on archaeological material from the Pre-Columbian cultures of Guatemala (the 1997 MOU). The 1997 MOU included among the materials covered by the restrictions, the archaeological materials from the Peten Region of Guatemala, then subject to the emergency restrictions imposed by the former U.S. Customs Service (U.S. Customs and Border Protection's (CBP) predecessor agency) in Treasury Decision (T.D.) 91-34 (56 FR 15181 (April 15, 1991)). These emergency import restrictions were imposed pursuant to 19 U.S.C. 2603(c) and 19 CFR 12.104g(b) and effective for a period of five years. They were subsequently extended pursuant to 19 U.S.C. 2603(c)(3), for a three-year period by publication of T.D. 94–84 in the *Federal Register* (59 FR 54817 (November 2, 1994)).

On October 3, 1997, the former U.S. Customs Service published T.D. 97-81 in the *Federal Register* (62 FR 51771), which amended 19 CFR 12.104g(a) to reflect the imposition of restrictions on these materials and included a list designating the types of archaeological materials covered by the restrictions.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which an agreement enters into force with respect to the United States.

This period may be extended for additional periods of no more than five years if it is determined that the factors which justified the agreement still pertain and no cause for suspension of the agreement exists. *See* 19 CFR 12.104g(a).

Since the initial final rule was published on October 3, 1997, the import restrictions were subsequently extended and/or amended four (4) times. First, on September 30, 2002, the former U.S. Customs Service published a final rule (T.D. 02-56) in the *Federal Register* (67 FR 61259) to extend the import restrictions for an additional five-year period.

Second, on September 26, 2007, CBP published a final rule (CBP Dec. 07-79) in the *Federal Register* (72 FR 54538) to extend the import restrictions for an additional five-year period.

Third, on September 28, 2012, CBP published a final rule (CBP Dec. 12-17) in the *Federal Register* (77 FR 59541) amending the CBP regulations to reflect the extension of import restrictions on archaeological materials and the addition of ecclesiastical ethnological materials of the Conquest and Colonial Periods of Guatemala, c. A.D. 1524 to 1821.

Fourth and lastly, on September 28, 2017, CBP published a final rule (CBP Dec. 17-14) in the *Federal Register* (82 FR 45178) to extend the import restrictions for an additional five-year period through September 28, 2022.

On January 6, 2022, the United States Department of State proposed in the *Federal Register* (87 FR 792) to extend the 1997 MOU between the United States and Guatemala concerning the import restrictions on certain categories of archaeological and ecclesiastical ethnological material from Guatemala. On May 5, 2022, after considering the views and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Guatemala continues to be in jeopardy from pillage of certain archeological and ecclesiastical ethnological materials, and that the import restrictions should be extended for an

additional five years, pursuant to 19 U.S.C. 2602(e). Pursuant to the new agreement, the existing import restrictions will remain in effect for an additional five years through September 28, 2027.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The restrictions on the importation of archaeological and ecclesiastical ethnological material are to continue to be in effect through September 28, 2027. Importation of such material from Guatemala continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property/current-agreements-and-import-restrictions> by selecting the material for “Guatemala.”

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury’s authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

Chris Magnus, the Commissioner of CBP, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Guatemala to read as follows:

§ 12.104g **Specific items or categories designated by agreements or emergency actions.**

(a) * * *

State party	Cultural property	Decision No.
* * *	* * *	*

Guatemala

Archaeological material, c. 12,000
B.C. to A.D. 1524, and Hispanic
period ecclesiastical ethnological
material, c. A.D. 1524 to 1821

CBP Dec. 12-17
extended by CBP
Dec. 22-24

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Robert F. Altneu, Director
Regulations & Disclosure Law Division,
Regulations & Rulings, Office of Trade
U.S. Customs and Border Protection.

Approved:

Thomas C. West, Jr.,
Deputy Assistant Secretary of the Treasury for Tax Policy.

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